

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

Kenyatta Lyles,)	Case No. 6:17-cv-03245-DCC
)	
Plaintiff,)	
)	
v.)	ORDER
)	
Anthony Grant, Rotundra Hughley,)	
Jennifer Doe, Candice Makins,)	
)	
Defendants.)	
_____)	

This matter is before the Court on Defendants’ Motion to Dismiss. ECF No. 39. Plaintiff filed a Response in Opposition, and Defendants filed a Reply. ECF Nos. 51, 56. In accordance with 28 U.S.C. §636(b) and Local Civil Rule 73.02(B)(2), (D.S.C.), this matter was referred to United States Magistrate Judge Jacquelyn D. Austin for pre-trial proceedings and a Report and Recommendation (“Report”). On August 3, 2018, the Magistrate Judge issued a Report recommending that the Plaintiff’s federal causes of action be dismissed and additional briefing be ordered on the amount in controversy with respect to Plaintiff’s state law claims. ECF No. 65. The Magistrate Judge advised the parties of the procedures and requirements for filing objections to the Report and the serious consequences if she failed to do so. Neither party has filed objections, and the time to do so has passed.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final

determination remains with the Court. See *Mathews v. Weber*, 423 U.S. 261 (1976). The Court is charged with making a de novo determination of any portion of the Report of the Magistrate Judge to which a specific objection is made. The Court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. See U.S.C. § 636(b). The Court will review the Report only for clear error in the absence of an objection. See *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of timely filed objection, a district court need not conduct a *de novo* review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” (citation omitted)).

After considering the record in this case, the applicable law, and the Report of the Magistrate Judge, the Court finds no clear error and agrees with the recommendation of the Magistrate Judge. Defendants’ Motion to Dismiss [39] is **GRANTED** with respect to Plaintiff’s RICO and Lanham Act claims and **TAKEN UNDER ADVISEMENT** with respect to Plaintiff’s state law claims. The parties are directed to submit additional briefing regarding the amount in controversy within 30 days of the date of this Order.

IT IS SO ORDERED.

October 15, 2018
Spartanburg, South Carolina

s/Donald C. Coggins, Jr.
United States District Judge

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.